

REMARKS35 USC §103:

Claims 1-9, 11-21, and 25-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 1,762,303 ("McBride") in view of WO 99/48331 ("331 publication"). Specifically, the Examiner indicates that it would have been obvious to one skilled in the art to substitute the heater and vessel arrangement of McBride with the heater and vessel arrangement of the '331 publication, in order to provide an alternative heating arrangement. Applicants respectfully disagree with and traverse the Examiner's rejection.

McBride discloses an electric tea urn that has a one piece open lower vessel 2 that includes a bottom wall (unnumbered). In the figure, the bottom wall is shown extending completely between, and integral with, the side walls (unnumbered). The bottom wall of McBride includes a guide pin 12 to locate and hold pipe 11. An electric heater 24 is disposed outside the lower vessel, in proximity to the bottom wall. Thermal energy is transferred from the heater 24, through the metallic bottom wall, and to the liquid disposed within the lower vessel 2. Hence, the bottom wall of McBride provides several functions (e.g., structurally part of the vessel, support for pipe 11, thermal conductor, etc.).

The '331 publication, in contrast, discloses a plastic water heating vessel 2 having an aperture 10 formed in the base part 12. A thick film heater 4 is clamped within the aperture 10.

Regarding independent claims 1, 11, and 25, there is no motivation or suggestion within either McBride or the '331 publication to replace the lower vessel and heater of McBride, with that of the '331 publication. The Examiner's suggestion that it would be obvious to combine the two references to provide an alternative is without merit for several reasons. First, there is no motivation within the references to provide an alternative. Each prior art device stands on its own as a completely different device. Second, the vessel and heater of the '331 publication do not provide any support for a pipe, as is required in McBride. Third, the heater integral metallic base combination of McBride's device provides a mechanism by which thermal energy is transferred to the

metallic vessel first, and to the liquid disposed within the vessel second. The heater and plastic vessel of the '331 publication do not function similarly. Fourth, the pressurized device of the McBride is a fundamentally different device than the hot beverage device disclosed within the '331 publication, and neither reference discloses or suggests the other type of device.

In sum, there is no motivation or suggestion within either McBride or the '331 publication to combine the two references, and the differences between the two references actually teach away from the proposed combination because functionality is lost. For at least these reasons, applicants respectfully request the Examiner withdraw the rejection of claims 1-9, 11-21, and 25-38, and allow them to pass onto issuance.

Claims 2-9, 12-21, and 26-38 depend from independent claims 1, 11, and 25 respectively. These dependent claims are not obvious, and therefore allowable, for the reasons provided above.

Applicants thank the Examiner for the conditional allowance of claims 10, 22, and 24. For the reasons provided above, however, it is believed that claims 10, 22, and 24 are allowable without amendment.

As the applicants have traversed each objection and rejection made by the Examiner, it is respectfully requested that the pending claims be allowed and the present application be passed onto allowance.

Applicants believe no other fee is due with the filing of this Response. However, if any additional fee is due, Applicants respectfully request the fees be charged to Deposit Account No. 50-3381.

Respectfully submitted,

By Richard D. Getz

Richard D. Getz
Registration No. 36,147
Attorney for Applicants
O'Shea, Getz & Kosakowski, P.C.
1500 Main Street
Suite 912
Springfield, MA 01115
413-731-3100